



November 15, 2021

Senator Joe Manchin
Chairman, Senate Energy and Natural Resources Committee
306 Hart Senate Office Building
Washington, DC 20510

Senator John Barrasso
Ranking Member, Senate Energy and Natural Resources Committee
307 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Manchin and Barrasso:

First, thank you for the opportunity to meet with both of you earlier this year. I appreciated the degree of our mutual concern regarding the ability of our coal, oil and gas industries to operate under reasonable regulations. Wyoming and West Virginia share abundant natural resources and are committed to lowering CO₂ emissions and still use fossil fuels in addition to hydroelectric power, nuclear, wind and solar.

Despite the hype of the reconciliation bill, much of the language is not ready for prime time and most damaging to our energy economies. In many paragraphs, text is provided, but often lacks conforming language to existing law such as the Mineral Leasing Act. Particularly troubling is language that affects existing leases, lease rights and contracts, which then begs for attempted resolution through litigation and liability concerns for the federal government.

At a time when oil and gas operators are beginning an economic comeback, the reconciliation bill will likely slam the door shut for our companies attempting to develop federal leases. While much of this bill is touted as build back better, for the fossil fuel industry it is build back never..

Language in the House Reconciliation Bill imperils the future of the fossil fuel industries and does nothing to address the climate desires of the Biden administration. In summary, should the onerous requirements concerning coal, oil and gas be enacted, companies will not only shift to private lands, but even more likely shift to other countries who will welcome them with open arms. The end result will be the US importing more energy, and nothing done to address the climate concerns.

Coal Provisions

Coal is an abundant, reliable and reasonably priced resource. It is important that it remains a part of the energy portfolio that produces electricity to our citizens. Last winter demonstrated the need for a broad based energy sector to provide electricity on demand, 24 hours a day, rain, shine or darkness. The language in the House bill clearly targets the coal industry on federal lands unfairly. Burning coal is not the issue, it is the release of CO₂. That should be the target. I am pleased to see provisions in the bi-partisan infrastructure bill that encourage the development of carbon capture facilities and the reauthorization of the Abandoned Mine Land program. I encourage you both to continue to fund the rapid deployment of carbon capture technology for coal fired plants and other facilities that produce CO₂. The economic and environmental benefits of CCUS far outweigh the cost of the loss of the coal industry.

I thank you for your continued opposition to provisions in the House Budget Reconciliation Bill (117-18) that target federal coal leasing and production. These efforts include, but are not limited to the elimination of the deferred bonus payment, limiting new coal leases to 10 years, but would be terminated if not commercially producing after five years, creating an additional severance tax of \$2.00 per metric ton of coal and the elimination of the royalty relief program.

Concerning the shortened lease term, as you well know the various federally required studies and reviews are a big part of the early stages of exploration and production. Shortening the lease terms of coal, oil and gas without shortening the degree or number of required studies pretty much guarantees no commercial production.

Oil and Gas Provisions

Unfortunately, the oil and gas industries do not fare any better in the bill language. I ask you to oppose the following:

Oil and Gas Fees: The bill imposes numerous fees on existing operations and leases, which will discourage and punish domestic oil and gas production. These fees will be imposed on small and large operators alike, burdening thousands of marginal wells. Such burdens will render some existing wells uneconomic, resulting in stranded reserves, never to be recovered.

Finally, the House language imposes numerous additional fees on our domestic oil and gas producers, including:

An increase the federal oil and gas royalty rate from 12.5% to 18.75%;
A new Severance Fee – equal to an amount not less than \$0.50 per BOE of production;
A new Conservation Fee of \$4/acre on producing lease acreage;

A new Speculative Leasing Fee of \$6/acre on non producing lease acreage;
A new expression of Interest Fee for lease bids of \$15 per acre;
Increased Minimum Bids for leases from \$2/acre to \$10/acre;
Roughly doubles the existing lease rental rates operators are required to pay; and
Cuts in half the primary term of the lease - from 10 years to 5 years.

Oil and Gas Bonding Requirements: There is an effort to increase the bonding requirements for the oil and gas industry. However, those provisions are poorly crafted, resulting in confusion of who would be required to post the additional bonds and what types of reclamation efforts will be covered by the bonds. The lack of clarity could result in multiple bonding of the same oil and gas field.

The proposed changes to the royalty process with the elimination of notice requirements will put into jeopardy a fair royalty collection process for lessees. The House attempts to establish royalties on renewable energy industries, but does not address the inherent conflict with current fees for rights of ways.

Elimination of Federal Royalty Relief: The bill completely deletes Section 39 of the Mineral Leasing Act. This deletion eliminates the authority for DOI to place oil and gas leases in suspension due to conservation concerns. Section 39 was enacted by Congress for the protection of the Government and Operators alike. Numerous lease suspensions have been granted by the DOI to promote conservation. This helps the Government retain the benefits of an existing oil and gas lease (i.e., bonus monies) while creating an equitable remedy for an operator who cannot engage or continue in production due to an extreme conservation issue. The deletion of Section 39 in its entirety will result in federal lease expirations and does not increase revenues for the Federal Government.

Wyoming and other energy producing states are disproportionately affected by the litany of increased costs to supply energy from federal lands. I'm sure that other countries are looking forward to supplying energy to the world, while our at home industries are hamstrung by the reconciliation bill.

I cannot overstate the devastating effect this bill will have on the people of Wyoming, with all of our nation's consumers of energy left holding an empty bag after paying more and more for their energy. All these provisions should be eliminated. Any changes to these statutes should be considered, debated and processed through regular Congressional order. I ask you to oppose these provisions.

Sincerely,



Mark Gordon
Governor of Wyoming

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P.S. Thanks you for coming to Mike Emji's funeral. Coal built Gillette and Mike was Mayor before Senate.